



INTERIOR BOARD OF INDIAN APPEALS

Elder R.J. Roberts, Jr. v. Acting Portland Area Director, Bureau of Indian Affairs

22 IBIA 167 (07/07/1992)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

ELDER R.J. ROBERTS, JR.,	:	Order Vacating Decision and
Appellant	:	Remanding Case
	:	
	:	
	:	Docket No. IBIA 92-89-A
ACTING PORTLAND AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	July 7, 1992

Appellant Elder R.J. Roberts, Jr., seeks review of an October 29, 1991, decision of the Acting Portland Area Director, Bureau of Indian Affairs (Area Director; BIA), reducing the amount of extended retroactive general assistance awarded to appellant. For the reasons discussed below, the Board of Indian Appeals vacates that decision and remands this case to the Area Director for further consideration.

Pursuant to a settlement agreement in Kalispel Tribe of Indians v. Brown, No. C-88-126-JLQ (E.D. Wash. filed Mar. 15, 1988), appellant filed an application for extended retroactive general assistance with the Puget Sound Agency, BIA. Based upon the information appellant submitted, BIA determined that he was entitled to receive \$1,113. Appellant was informed of this determination through a notice of approval dated April 2, 1991.

By a "corrected" notice of approval dated July 30, 1991, appellant was informed that his payment had been reduced to \$313, based upon the fact that he had received \$200 per month rent from Teresa Doucette. Appellant appealed this determination to the Area Director, stating that he had only verified Ms. Doucette's residence, and she had added the statement that she had paid \$200 rent per month. Appellant denied receiving any rent from Ms. Doucette.

The Area Director's October 29, 1991, response to this appeal stated:

Our review of the records shows that you were provided a corrected Notice of Approval dated July 30, 1991 which informed you of being approved for a grant in the amount of \$313.00. This amount took into consideration the \$200 per month Ms. Doucette claimed to have been paying you for rent, along with other income you reported in your application.

Based on these records, the decision of the Puget Sound Agency to approve you in the amount of \$313.00 is upheld. The program is required to accept information that is provided by

the applicant as being factual. Because the Puget Sound Agency did not have any reason to suspect this information as being incorrect, its decision was correctly based on Ms. Doucette's information.

(Letter at 1-2).

The document BIA relied upon in making its second determination is a handwritten note which states: "To whom it my concern: I Elder R.J. Roberts Jr. verify that Tresea [sic] Doucette resided at my residence 2915 Martin Road, Bellingham Va. 98226 from 11-89 thru 2-90. Thank you." On the bottom of the document is a notation reading: "Rent \$200.00 a month." Even a person without training in handwriting analysis can see that the notation concerning rent is in a different handwriting than the body of the document.

Although it is not clear how this document came to be in appellant's file, BIA has not alleged that appellant submitted it in support of his application. The Area Director's decision letter suggests that the information was provided by Ms. Doucette.

In administering a program such as the present one, BIA must rely heavily upon information provided to it by an applicant. In this case, however, it does not appear that the information relating to appellant's alleged receipt of \$200 per month in rental income was provided to BIA by the applicant, i.e., appellant, but rather was provided by a third party. Furthermore, appellant specifically denies receiving any rental income from Ms. Doucette. When faced with the discrepancy between the information furnished by appellant and the information received from Ms. Doucette, BIA should have sought clarification from appellant. At the very least, BIA should have investigated further when, in his notice of appeal to the Area Director, appellant specifically denied receiving any rental income.

Pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the October 29, 1991, decision of the Portland Area Director is vacated and this matter is remanded to him for further consideration.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Anita Vogt
Administrative Judge